

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Sprint Nextel Request for Limited Waiver of	)	WT Docket No. 05-286
the December 31, 2005 Deadline to Achieve	)	
Ninety-Five Percent Penetration of Location-	)	
Capable Handsets among its Subscribers	)	

---

**COMMENTS OF MOTOROLA, INC.**

Motorola, Inc. (“Motorola”) supports the request of Sprint Nextel Corporation (“Sprint Nextel”) for a temporary waiver of the December 31, 2005 wireless Enhanced 911 (“E-911”) deadline for its wireless handsets.<sup>1</sup> Sprint Nextel was to have 95 percent of its active subscriber handsets be E-911 location-capable by that date. The information presented in its request clearly demonstrates that Sprint Nextel has met all of the criteria for a waiver. Sprint Nextel has shown good cause for the waiver, based on a customer “churn” rate that has been lower than originally anticipated by the Commission, and based on a software issue that occurred in some of its GPS capable handsets after distribution, which affected their location capability. Sprint Nextel and Motorola have taken concrete steps to address these problems and come into compliance with the Commission’s E-911 rules; in fact, these efforts are unprecedented and unmatched. Accordingly, there is good cause for the waiver and waiver is not inconsistent with the public interest.

---

<sup>1</sup> Sprint Nextel Corporation Request for Limited Waiver, CC Docket No. 94-102 (filed Sept. 29, 2005) (“*Sprint Nextel Waiver Request*”).

As a primary basis for its request, Sprint Nextel has explained that the rate of customer “churn” relied on by the Commission in establishing the current December 2005 deadline<sup>2</sup> has not occurred among Sprint Nextel subscribers.<sup>3</sup> This lower than anticipated churn rate is due, in part, to the governmental, commercial, and business nature of users who subscribe to Sprint Nextel’s iDEN service. To encourage these customers to replace their existing handsets with location-capable devices, Sprint Nextel has provided numerous and frequent incentives to subscribers to “trade up” to newer, better-featured phones. A certain portion of these users, however, appears highly resistant to giving up their old iDEN-based phones, which they have come to rely upon and that apparently provide all of the features they need.

As many have recognized, including the Commission’s independent analyst Professor Dale Hatfield,<sup>4</sup> it is not appropriate or fair to adhere to a penetration deadline that was based on an incorrect estimate of the rate of churn. Moreover, it is particularly inappropriate to sanction a carrier whose distinguishing characteristic is that customers *like their phones so much* that they do not want to exchange them. In this case, Sprint Nextel and its supplier Motorola have done everything reasonable to achieve the E-911 location capability goal.

Sprint/Nextel offered its first GPS-capable iDEN phone on October 1, 2002. To

---

<sup>2</sup> See Letter to Blaise Scinto and Dan Grosh, Wireless Telecommunications Bureau, Federal Communications Commission, from Larry R. Krevor, Nextel Communications, Inc., 5 (filed Apr. 2, 2001) (indicated a churn rate of 2.5% per month as an integral part of its calculation that Nextel could achieve 95% penetration by December 31, 2005).

<sup>3</sup> See *Sprint Nextel Waiver Request* at 15-18 (reporting consistently decreasing churn rates since 2000).

<sup>4</sup> “A Report on Technical and Operational Issues Impacting the Provision of Wireless Enhanced 911 Services,” Professor Dale N. Hatfield, 44-45 (rel. Oct. 16, 2002).

make this possible, Nextel and Motorola had to create a solution from scratch because no external companies were developing a location solution for iDEN technology.<sup>5</sup> As described in the Sprint Nextel request,<sup>6</sup> this extraordinary effort included a comprehensive review of potential technological solutions, solution design and engineering, and accelerated implementation and testing, all of which were successfully completed by Nextel and Motorola in record time for the unique and specialized Motorola iDEN technology. Thereafter Nextel hit the 50 percent of new activations mark ahead of schedule, and since February virtually every new Sprint Nextel phone provided to subscribers was E-911 location-capable.<sup>7</sup> Indeed, Sprint Nextel, supported by Motorola, has done everything reasonably possible to meet this deadline and its inability to do so stems from a good-faith churn rate estimate that turns out (in hindsight) to have been overly optimistic when applied to its special user base. Accordingly, a temporary waiver of this deadline is appropriate and fair.

In the summer of 2004, a handset software issue occurred in certain GPS capable handset models. This required the quick modification of Nextel's network 911 software

---

<sup>5</sup> As described in detail in Sprint Nextel's Waiver Request, the development of a GPS-enabled iDEN handset was much more difficult than for other technologies. *Sprint Nextel Waiver Request* at 8-10. For example, several companies were at work on location solutions for CDMA. In contrast, for the iDEN air interface, Motorola alone had to take on that burden, working with Nextel. Well before the FCC established Nextel's Phase II E-911 implementation schedule, Nextel and Motorola began to research, develop, test, and install the hardware and software necessary to develop and launch GPS-capable handsets. At that time, however, and unlike the other air interfaces utilized by wireless carriers, no GPS capability existed for the iDEN platform. Accordingly, Nextel and Motorola had to develop an iDEN GPS solution from scratch, a task that was not faced in any other technology.

<sup>6</sup> *Sprint Nextel Waiver Request* at 22-24.

<sup>7</sup> *Id.* at 23.

(an action that was completed in a matter of days), the development of software patches for its existing E-911 location-capable handsets, and the distribution of the software patches to customers and service shops.<sup>8</sup> Once the handset is reflashed with the software patch, the GPS location capabilities in that handset are instantly turned back on.

These phones, when purchased by Sprint Nextel and sold to subscribers, *were* location-capable. The fact that the phones later developed a technical problem that affected the phone's usability is not something that should count against Sprint Nextel in terms of compliance with the Commission's mandate. This situation is similar to a broken "9" key or a broken antenna in the sense that any of these things could prevent a phone from being able to complete an E-911 call or provide location information. Such a post-introduction incident should not be counted against the carrier, when the phone had full E-911 location capability as sold to the user. For this and other reasons described below, at this point, all of these phones (whether they have been reflashed or not) should be included as compliant phones in calculating achievement of the 95 percent goal.

All of these phones *are* E-911-location-capable in a very real sense. First, they have GPS E-911 location capability in them and simply need to be reflashed in order to again communicate 911 location information – a process that takes only a few minutes. Second, every user has readily available to him the ability to reflash his phone and turn the GPS E-911 location capability of his phone on.<sup>9</sup>

---

<sup>8</sup> See *Sprint Nextel Waiver Request* at 11-14 (providing a full description of this problem and solution).

<sup>9</sup> The fact that the user needs to perform a relatively simple action to correct the GPS capability should not prevent these phones from being deemed GPS capable (just as the fact that a subscriber has to load friends' names on a cell phone does not mean the phone does not have a phone-book capability). In the case of *any* phone, user action is necessary to ensure the availability of E-911 location capability. Any user has to put a

Motorola and Sprint Nextel have gone to great lengths to ensure that every user is in a position to reflash the E-911 location capability so as to turn the GPS capability on in a matter of minutes with little effort and at no cost. Users can do this at home, using their home computer and software already provided to them; they can do it using the Internet; they can take it by any Sprint Nextel store; or they can send it in to Sprint Nextel or Motorola.

In fact, Sprint Nextel and Motorola have provided users with significant encouragement and incentives to do so. As detailed in Sprint Nextel's request, personal packages were sent to all customers with all necessary cables and software to perform the software reflash. Similarly, Nextel and Motorola web sites provided notification and information to explain the need for the reflash, with instructions on how to reflash the phones. Incentives were offered to users to encourage them to perform the reflash, including a raffle of more than \$1 Million worth of Cadillacs. Users were regularly reminded and urged to do the reflash. For those users who did not want to do it themselves, they were invited to bring their phones into any Sprint Nextel outlet and the reflash would be performed there quickly. Meanwhile, Motorola put together an incentive package including cash payments to encourage all independent dealers handling Nextel phones to reflash the software in every affected phone brought in by customers for any reason, and, of course, Motorola reflashed every affected phone that was sent to

---

(Continued . . .)

charged battery in his phone, power up his phone, and position himself in a place that has system coverage, in order to make an E-911 call. In the current case, the user has the ability in a matter of minutes to reflash the phone to enable it to make E-911 calls with GPS location information.

Motorola for any kind of service.

These efforts continue today, and will continue in the future. There can be little doubt that the types of steps taken by Sprint Nextel and supported by Motorola are unprecedented. Given these continuous efforts by Sprint Nextel and Motorola, the fact that certain users have not chosen to activate the sleeping E-911 GPS capability in their phones should not be counted against Sprint Nextel. Some portion of users are simply going to act only when they are ready to, and no manner of incentives will compel them to do so before that time. Indeed, for many, there is less reason for them to restore the E911 location capability because their local emergency call centers are not yet in a position to accept such information. In light of this situation, it would not be warranted or productive to require Sprint Nextel or Motorola to undertake even more extensive and costly measures to try to force users to fix their phones, and to do so would provide little (if any) public benefit.

### **CONCLUSION**

Based on the foregoing, Motorola supports the Sprint Nextel request for additional time to reach the 95 percent goal, and believes that Sprint Nextel has shown that its request meets all the requirements for such a waiver. Achieving 95 percent by the new deadline remains a very aggressive goal and will require the continuation of the significant efforts that have been expended to upgrade users. It appears that many iDEN users just want to keep their old pre-GPS “tried and true” phones and do not want to acquire or learn a new phone. Another portion of customers, whose phones have a GPS location capability that they could easily turn on, have chosen not to do so. Sprint Nextel, supported by Motorola, will continue to encourage users of the older phones to “trade up” to increase the churn rate, and will continue to offer incentives to those who

merely need to take a few minutes to turn on their GPS capability. With respect to the latter group, the Commission should conclude that the phones where the GPS location capability is merely awaiting easy turn-on by the user *are* E-911 location-capable for the purpose of this requirement, where Sprint Nextel can demonstrate that users have been provided the means and instructions to make their phones GPS capable easily and at no cost.

Respectfully submitted,

By: /s/ Mary E. Brooner

Mary E. Brooner  
Motorola, Inc.  
1350 I Street, NW  
Suite 400  
Washington, DC 20005  
202.371.6900

Dated: October 21, 2005